



1634

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re applications of:

Sherri M. Brown et al.

Appln. No.: 09/955,216

Filed: September 19, 2001

For: Nucleic Acid Molecules Associated With
The Gibberellin Pathway

Art Unit: 1634 ✓

Examiner: Sheinberg, Monika B

Atty. Docket: 38-21(15096)C

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Certificate of Mailing

I hereby certify that this Response to Restriction Requirement, is being deposited with the United States Postal Service as first class mail in an envelope addressed to:

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P.O. Box 1450
Alexandria, VA 22313-1450

on June 10, 2003

Gracie Williams

(Printed name of person signing this certificate)

Gracie Williams

(Signature)



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In re Patent Application of:

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Appl. No.: 09/955,216

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For: Nucleic Acid Molecules Associated
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Response to Restriction Requirement

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

In response to the Office Action mailed May 15, 2003, Applicants submit the following remarks.

Remarks

The application presently contains claims 8 and 10-19. In the Office Action mailed May 15, 2003, the Examiner required restriction to one of the following inventions under 35 U.S.C. § 121:

Group I: Claim 8, drawn to a method for determining a level or pattern of a gibberellin pathway enzyme by nucleic acid detection, classified in class 435, subclass 6; and

Group II: Claims 10-19, drawn to nucleic acids, classified in class 536, subclass 23.1.

Applicants respectfully traverse the restriction requirement, and provisionally elect Group II (claims 10-19 drawn to SEQ ID NO: 7) for further prosecution.

Applicants submit that the complete examination of the application would be handled most expeditiously by treating all of the pending claims as a single entity. As Section 803 of the MPEP directs, “[i]f the search and examination of an entire application can be made without serious burden, the Examiner must examine it on the merits, even though it includes claims to distinct or independent inventions.” Applicants respectfully submit that the Examiner has not shown that a search and examination of the entire application would cause a serious burden. Rather, a serious burden would arise if the application were restricted.

Applicants submit that the restriction requirement is inappropriate. For example, Applicants contend that, at least, Group I and Group II should be examined simultaneously because they are related as nucleic acids comprising SEQ ID NO: 7. Accordingly, examination of Group I and II together would pose no undue burden to the Examiner. Furthermore, Applicants submit that restriction to a single nucleotide sequence is improper and Applicants believe no serious burden would result by the search and examination of at least ten nucleotide sequences. Applicants disagree that each nucleotide sequence in the application is necessarily a patentably distinct species, but provisionally elect the species of Group II (nucleic acids represented by SEQ ID NO: 7) for further prosecution.

Based upon the foregoing, Applicants submit that the restriction requirement is improper and therefore should be withdrawn. To facilitate prosecution, however, Applicants have provisionally elected, with traverse, Group II (claims 10-19 drawn to SEQ ID NO: 7).

Should the Examiner have any questions regarding this application, the Examiner is encouraged to contact Applicants' undersigned representative at (314) 694-6343.

Respectfully submitted,



DATE:

June 10, 2003

Pamela J. Sisson
(Registration NO. 53,600)

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Re: U.S. Utility Patent Application No. 09/955,216
Filed: September 19, 2001
For: Nucleic Acid Molecules and Other Molecules Associated With
The Gibberellin Pathway
Inventors: Sherri M. Brown *et al.*
Atty. Docket: 38-21(15096)C

Sir:

Transmitted herewith for appropriate action by the U.S. Patent and Trademark Office (USPTO) are the following documents:

1. Response to Restriction Requirement (dated 5/15/03 from PTO);
2. Certificate of Mailing for Response to Restriction Requirement; and
3. (1) Return receipt-postcard.

It is respectfully requested that the attached postcard be stamped with the date of Filing of these documents, and that it be returned to us. In the event that extensions of time are necessary to prevent abandonment of this application, then such extensions of time are hereby petitioned.

The Commissioner is hereby authorized to charge any fee deficiency, or credit any overpayment, to our Deposit Account No. 13-4125, referencing matter number 38-21(15096)C.

Respectfully submitted,



Pamela J. Sisson (Reg. No. 53, 600)

Date: June 10, 2003

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